

CRIME: 417 (c) P.C. Brandishing a Fire arm at a Police Officer

VICTIM: Officer Jose Sioson

SUSPECT: Jamie Renee Fitzgerald (03/01/77)

LOCATION: 257 Jamacha

REFERENCE: Statement of Case

FACTS:

On 07-08-2012, at approximately 8:57 AM, the El Cajon Police Communications Center received a call from Jamie Fitzgerald indicating that her husband had left their apartment and left behind a shotgun. Fitzgerald told police she wanted to turn the gun in. Fitzgerald specifically stated that the shotgun was loaded but she had locked it up. The call was made on a recorded line. This call was not immediately dispatched due to the fact that it was not an urgent or high priority call. Additionally it was noted in the call for service (CFS) that Jamie Fitzgerald had priors for 5150 W&I Mental Health Evaluation for danger to self or others and that no registered guns were associated with the Fitzgerald's.

The call was initially dispatched to ECPD Officers D. Ehlers and S. Stoller at 10:26 AM and they arrived on scene at approximately 10:36 AM. Both Officer Ehlers and Stoller have been to the Psychiatric Emergency Response Team (PERT) academy for police officers and have worked with PERT clinicians while dealing with persons who were deemed to be a danger to themselves and or suicidal. In addition to this Officer Ehlers is an ECPD Crisis Negotiator.

At the time of their response to this incident Officer Ehlers was aware that Jamie Fitzgerald had a previous history of 5150 WI committals. In addition to this Officer Ehlers was aware that Jamie Fitzgerald's husband had recently left her and that she had turned in her service dog to ECPD about 1 week prior. Officer Ehlers explained that he knows, from training and experience, that people who are making a plan to commit suicide often give away their possessions, say goodbye to friends, and do other things to cut themselves off from others as part of that plan. Officer Ehlers was concerned that Jamie Fitzgerald may be suicidal because of her history of 5150 W&I Committals, the fact that her husband had left her, and the fact that she had given her service dog away.

Due to these circumstances Officers Ehlers and Stoller decided not to approach the apartment for their safety. They had ECPD dispatch call Jamie Fitzgerald and ask her to come outside, without the shotgun, so that they could ensure that she was not armed and so they could retrieve the weapon safely. This request was made at approximately 10:40 AM.

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Fitzgerald's apartment, #220, was determined to be a second story apartment located in the southeast corner of the apartment building it is located on. The apartment building consists of 8 units, 4 downstairs and 4 upstairs. The "front" of Fitzgerald's apartment faces to the east and has a sliding glass door to a balcony that is approximately 4' wide by 12' long. The balcony had a horizontal railing that was approximately 3.6' tall and had vertical wooden balusters that support the railing. Apartment 220 shares a common access stairway with apartment #221 which is located in the northeast corner of the building. The entry door of apartment 220 faces north toward the door of apartment 221. Apartment 220 also has 1 south facing window located in the spare bedroom located in the southwest corner of the apartment. The rear of the apartment is to the west and shares a joint wall with apartment #223 but there is no common access to that apartment. Overall the apartment building that #220 is located on is located in the northwest area of the complex. It has parking lots to the north and west sides. The east side faces another apartment building to the east. There are common area walkways to the south and east, in between the apartment buildings.

ECPD Dispatch Supervisor L. Paige then initiated a call to Jamie Fitzgerald and informed her that officers were on scene and that they were requesting that she come outside to meet with them. Jamie Fitzgerald asked why the officers would not come to her and why she needed to go outside. L. Paige explained to Fitzgerald that the officers wanted her to come outside for their safety because she had stated the weapon was loaded. Fitzgerald asked a second time why the officers would not come to her door and L. Paige tells her that the officers are waiting outside for her. At that point Jamie Fitzgerald tells L. Paige "Ok, I'll go out." This call was also made from a recorded line.

At approximately 10:42 AM dispatch advised Officer Ehlers that Fitzgerald had been requested to come outside to meet with them but that she had been confrontational about it.

Officer Ehlers then indicated that Fitzgerald had come out on the apartment balcony, which was a second story unit, and he spoke to her directly. Officer Ehlers saw Fitzgerald was on the balcony he could see her hands and upper body and could see that she was not armed at that point. He stood in a position where she could see him clearly and identify him as a police officer, because he was in an ECPD uniform, and he is certain that she saw him. They spoke directly to one another and she told him that the shotgun was loaded. He asked her to come downstairs and meet with them and she said that she would, three different times, but never did. Fitzgerald asked Officer Ehlers to come up the stairs and stand in front of the "peep hole," knock and identify himself, and she would give him the shotgun. Officer Ehlers told Fitzgerald that he would not do this for safety reasons and he requested that she come down without the weapon so that the officers could safely retrieve the shotgun.

Officer Ehlers found it strange that Fitzgerald wanted him to come to her door and knock and announce himself as a police officer when she had already seen him in full uniform. He was concerned that she was playing games by going in and out of the apartment where she claimed to have a loaded shotgun and felt that she was acting nervous.

At this point, 10:43 AM, Officer Stoller asked dispatch for emergency traffic, meaning only transmissions related to this call or other emergencies should be broadcast at that time. They also requested that other officers respond to the scene to assist. Officer Ehlers also

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specifically requested Officer Sioson come to the scene because he knew that Officer Sioson is a Special Weapons and Tactics (SWAT) team officer and that he has access to special equipment.

Officer Ehlers was further concerned about the circumstances because he was aware that it was a Sunday morning and that there were families and children about. He also noted that immediately to the north of Fitzgerald's apartment complex is a Burger King restaurant with an attached children's playground. Furthermore during his contact with Fitzgerald she had told him that she was going to come out and bring the shotgun out to him and he had repeatedly told her not to do so.

The following officers also responded to the scene to assist and their relative positions. Officers J. Crawford and N. Sprecco were to the north end of the complex about 60 feet from Fitzgerald's apartment, on the ground level, at the northwest corner of the building that faces Fitzgerald's apartment near apartment 124. Officers Stoller, Bonilla and Darrow were located near the north east corner of the apartment building located just to the south of Fitzgerald's apartment building near apartment 118. They were at ground level and about 50 feet from Fitzgerald's apartment balcony. Officer Sioson was at ground level, behind a tree, just east of Officers Stoller, Darrow and Bonilla and was about 55 feet from Fitzgerald's balcony. Officer Sioson was deployed with his SWAT M-4 Rifle which is equipped with a scope capable of 3 power magnification. Officer P. Gomes was in the parking lot to the north west of Fitzgerald's apartment and did not have a direct line of sight to her apartment. Sgt. Robertson also responded to the scene and was briefly in a position near Officer Sioson.

As the officers were setting up the perimeter, Communications Supervisor Paige recalled Fitzgerald and again tried to get her to come out to meet the officers. They spoke for nearly 15 minutes, during which time, Supervisor Paige repeatedly explained to Fitzgerald that the officers wanted her to come outside without the gun so that they could recover and secure the weapon safely. Fitzgerald indicated that she understood that the officers needed to feel safe and that she had done nothing wrong. Fitzgerald repeatedly told Supervisor L. Paige that she wanted the officers to come to her door, knock loudly, announce themselves as police and that she would open the door and give them the gun. During the call Fitzgerald told Supervisor Paige things like "I don't feel safe out there" and "I just don't feel safe." Supervisor Paige told Fitzgerald that she has already seen the officers outside and that she knows they are police and Fitzgerald acknowledged that she knew this. Ultimately Supervisor Paige disconnected the call by advising Fitzgerald that Officer Ehlers will call her. This call was conducted on a recorded line.

At approximately 10:55 AM Sgt. Robertson arrived on scene. He directed Officer Ehlers to have ECPD Communications end the call with Fitzgerald and that Officer Ehlers should call her and negotiate with her via telephone. Officer Ehlers then moved away from the scene out of visual range of Fitzgerald's apartment so that he could focus on negotiating with her by phone.

At approximately 11:01 AM, Officer Ehlers began an approximately 36 minute long phone conversation with Fitzgerald. During this conversation he repeatedly asked Fitzgerald, and tried to convince her, to come outside and meet with them without the shotgun; however

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she repeatedly refused to do so. During this time Fitzgerald told Officer Ehlers different information about the shotgun indicating that it was, or was not, loaded and that it was, or was not, in a locked case. At one point Officer Ehlers suggested to Fitzgerald that the police could just leave, without taking the shotgun, because she had not done anything wrong or committed any crime. Fitzgerald told Officer Ehlers that she knew she was a threat to "the children across the way," and that she did not care about "the old lady" downstairs. Fitzgerald also made some provocative statements such as "What if I come out there with the shotgun?" And "I am coming out with it." She also told him that she was handling the shotgun and taking it out of the case and he repeatedly told her not to do these things. Even though he told her not to handle the shotgun he could hear an officer on the police radio saying that she was handling the gun, and he could hear, over the phone, the sound of her attempting to manipulate the gun. Officer Ehlers offered to take Fitzgerald to the hospital and she told him the hospital was not able to help her.

Officer Ehlers tried to offer Fitzgerald other options, such as allowing her to talk to a female officer, to make her more comfortable but she refused all of his attempts. Officer Ehlers asked Fitzgerald if there was anything he could do to help resolve the situation and she responded "What I'm asking for is for you to shoot me." Fitzgerald then disconnected the call and when Officer Ehlers called her back the call went directly to voice mail. Officer Ehlers was using a cellular telephone and did not have the capability to record the phone calls.

Other Officers on scene were able to observe Fitzgerald's apartment balcony during the time that she and Officer Ehlers were talking on the phone. At approximately 11:16 AM Officer Sprecco saw Fitzgerald come out onto the balcony. Shortly after that he saw her pointing to something on the floor of the balcony but he could not see what it was from his position. This is because the balcony railing and balusters obscured the view from the angle he was looking from. The item was later determined to be a gun case containing the shotgun.

During this time the decision was made to begin evacuating the apartment complex for the safety of the residents.

At approximately 11:38 hours Officer Stoller saw Fitzgerald on the balcony and noted that she was holding a gray plastic gun case. Other officers noted that it appeared that Fitzgerald was using a key to unlock the gun case. During the time that Fitzgerald was attempting to open the case, Sgt. Robertson, Officer Stoller, Officer Sioson and Officer Sprecco each yelled out directions to Fitzgerald not to open the case or handle the shotgun. She ignored all of their instructions and eventually removed the gun from the case at approximately 11:43 hours. This is approximately the same time that she disconnected the call with Officer Ehlers.

During this time, Sgt. Robertson was in the complex near Officer Sioson's position and he spoke to Fitzgerald directly. He told Fitzgerald that they were there to help her and they wanted her to come out without the shotgun. She told him "this is going to help me," referring to the shotgun. Fitzgerald then began trying to manipulate the gun in an attempt to "rack the slide," which would load the chamber. Fitzgerald told Sgt. Robertson "This thing is locked. How does it unlock?"

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Fitzgerald was able to "rack" the slide of the shotgun and she continued to ignore the commands of the officers to drop the gun. She then began to wave the shotgun around in the air but was not pointing it at anyone at that moment. Fitzgerald also began to sing a song about Jesus or that had Jesus's name in it. Fitzgerald also pointed the gun at her own head and put the barrel in her mouth. Ultimately Fitzgerald put the barrel of the shotgun to her head and pulled the trigger but the gun did not discharge. Fitzgerald "racked" the slide again and pointed the gun at her chest and pulled the trigger again but the gun did not discharge. Fitzgerald racked the slide a third time and again put the gun to her head and pulled the trigger again but it did not discharge.

During this time [REDACTED], the resident of apartment [REDACTED] which is an upstairs apartment directly east of Fitzgerald's apartment, came out on the balcony and told Fitzgerald to do what the police were telling her and that she should not be handling the gun "like that." Sgt. Robertson was concerned for [REDACTED]'s safety and directed her to go back inside her apartment.

At this point, approximately 11:54 AM, Officer Ehlers was able to re-establish phone contact with Fitzgerald. During this phone conversation with Fitzgerald, Officer Ehlers felt her demeanor had changed and that she was more matter of fact. She talked of going to heaven and he believed that she was committed to committing suicide. During the phone call he believed that she pointed the gun at herself and pulled the trigger because he heard the sound of the hammer strike or "click." Fitzgerald then asked Officer Ehlers "Darren, how do you work this thing?" Officer Ehlers stated that Fitzgerald became frustrated when he would not tell her how to operate the mechanism. Officer Ehlers also stated that towards the end of this conversation he heard what sounded to him like Fitzgerald loading the shotgun. Officer Ehlers asked Fitzgerald what she was doing and she answered "I'm loading it."

Officer Ehlers then heard a radio transmission from Officer Sprecco that Fitzgerald was manipulating the weapon, at which point Officer Ehlers broadcast on the police radio that he thought he heard Fitzgerald loading the shotgun. Officer Ehlers continued to try to talk to Fitzgerald and to try to diffuse the situation but Fitzgerald ended the call with him. Officer Ehlers felt at this time that Fitzgerald was about to do something and he notified Sgt. Robertson and Lt. Moulton of this. Officer Ehlers then began walking back toward Officer Sioson's position.

Simultaneously with the end of the call, Fitzgerald walked back into her apartment with the shotgun for approximately 30 seconds. Officer Sprecco asked, via the police radio, if there was information indicating that Fitzgerald had ammunition in her apartment. Sgt. Robertson advised that it was not known but that they should assume that she did for officer safety reasons.

At approximately 12:04 PM, Fitzgerald returned to the balcony still holding the shotgun. She placed the barrel of the shotgun on the balcony railing and was pointing it in an easterly direction. Fitzgerald then slid the barrel along the railing and began to point it in a more southerly direction towards where Officers Sioson, Stoller, Darrow and Bonilla were standing. Officer Sioson yelled at Fitzgerald not to point the shotgun at them. Fitzgerald

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initially moved the gun so that it was not pointing in their direction. Fitzgerald then counted aloud "one, two, three," and simultaneously pointed the barrel of the shotgun directly at the position where Officers Sioson, Stoller, Darrow and Bonilla were.

At this point Officer Sioson fired 3 rounds from his M-4 Rifle at Fitzgerald, striking Fitzgerald in the left hand (which was on the pump action), striking the shotgun on the right side behind the ejection port (this round fragmented and the fragments caused minor injuries to Fitzgerald's right hand and right chest), and striking Fitzgerald on the top of the head.

Officers on scene noted that Fitzgerald collapsed on the balcony but could be seen moving. Officer Sprecco and Sgt Robertson then made their way to Fitzgerald's apartment. They found the door to the apartment was locked and they had to kick the door open to gain entry. They found Fitzgerald lying on the balcony and found the shotgun between Fitzgerald's legs and the balcony railing. Sgt. Robertson moved the shotgun away from Fitzgerald to make it safe for the paramedics to render first aid. Sgt. Robertson noted that Fitzgerald had injuries to her left hand and the top of her head. She was breathing and conscious and was moving her right hand slightly.

The paramedics then attended to Fitzgerald's injuries and transported her to Scripps Mercy Hospital for treatment. Officer Stoller responded to the hospital where she took photos of Fitzgerald's injuries and collected her clothing for evidence.

After the shooting Officer Sioson was driven back to the police station by Officer J. Crawford. Officer Sioson maintained custody of his rifle to be turned over to investigators for the investigation.

On 07-08-12, at approximately 2:50 PM, Detective Forster and I met with Officer Sioson in a meeting room at ECPD. We advised him that we would be investigating the incident and the steps involving collecting evidence and a statement from him. Detective Forster explained to Officer Sioson that he had the right to a support person if he wished and he declined this option.

At 3:04 PM Laboratory Technician S. Peterson arrived and took photos of Officer Sioson for documentation. Officer Sioson was in full uniform wearing all the equipment he had been wearing at the time of the shooting. S. Peterson also took photos of Officer Sioson's rifle and collected it for evidence.

At 3:37 PM Detective Forster and I drove Officer Sioson to the scene for a scene walk-through. We parked in the parking lot and Officer Sioson showed us where he had parked when he arrived at the scene. We then conducted the walk-through from that location to the position where Officer Sioson indicated he had fired from. The walk-through was digitally recorded and a copy was later transferred to a CD and entered into evidence at the El Cajon Police Department.

At the conclusion of the walk-through we drove Officer Sioson back to ECPD where he gave a voluntary statement. This interview was also digitally recorded and was also transferred to a CD and entered into ECPD evidence. The following is a synopsis of that interview.

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Officer Sioson has been a police officer for the City of El Cajon for more than 22 years. He is a member of the SWAT team (since 1994) and is a SWAT sniper. The weapon Officer Sioson used in this shooting was issued to him by the police department and is a Colt M-4 Commando with a 1-3 power scope. At the time of the shooting Officer Sioson had the scope set to 3X magnification, meaning that the objects appear 3 times larger than with the naked eye.

Officer Sioson was just finishing a call of a false burglary alarm at a school when he received a request from Officer Ehlers to respond to the scene at 257 Jamacha. Officer Sioson had some knowledge that the nature of the call was that a woman, who had a recent arrest for 5150 W&I, had called wanting to turn in a shotgun. He recalled hearing transmissions by Officer Ehlers to the effect that the woman refused to come out of the apartment without the shotgun. Officer Ehlers specifically requested that Officer Sioson bring his rifle when he arrived on scene.

When Officer Sioson arrived he deployed with his rifle into the courtyard of the complex. He made his way to the east side of apartment 118 where he located Officer Ehlers. Officer Sioson spoke to Officer Ehlers and Officer Ehlers told him the lady was "5150" and "playing games with him." Officer Sioson told us when Officer Ehlers arrived he had dispatch call the woman and tell her to come out but she wanted to come out with the shotgun. Officer Sioson believed that Officer Ehlers had talked to the woman for some time trying to get her to come out but she refused to come out insisting she wanted to bring the shotgun out.

At this point Officer Sioson took up a position behind a tree on the east side of apartment 118. Officers Stoller, Bonilla, Darrow and his K-9 were to his left side along the east wall of apartment 118. Officer Sioson was aware that he and the other officers only had some partial cover and concealment, offered by the tree and the apartment wall, from where the suspect's point of view would be on the balcony of apartment #220.

Officer Sioson explained that Officer Ehlers left the area to use a phone to call Fitzgerald and attempt to negotiate with her. As Officer Ehlers was doing this Fitzgerald came out onto her balcony. As the situation progressed Fitzgerald kicked an object onto the balcony which Officer Sprecco identified a gun case. Officer Sioson suggested to Officer Ehlers that they have the woman throw the case off the balcony but they did not do this because the gun was allegedly loaded and there was a concern of it going off accidentally.

Officer Sioson said that the woman next began to manipulate the case. He recalled Officer Sprecco advising over the radio that Fitzgerald was unlocking the case. Officer Sioson yelled at Fitzgerald giving her commands to leave the gun in the case and to stop messing with the lock but she ignored his commands and eventually took the gun out.

Fitzgerald then began singing songs about Jesus while trying to rack the shotgun. Fitzgerald was able to rack the shotgun and she began waving it around and then put it to her head and pulled the trigger "on an empty chamber." Officer Sioson said he used his scope on 3X power to attempt to see if Fitzgerald had rounds in the magazine, but he could not tell.

A short time later Fitzgerald went inside the apartment and Officer Sioson thought that she may have gone inside to get ammunition. Fitzgerald was inside the apartment for about 30 seconds and she came back onto the balcony with the shotgun. She was still manipulating the shotgun

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and after a short time she pointed the shotgun directly at him. He yelled at her to not point the shotgun at him and she responded, "Really, huh?" Fitzgerald moved the gun along the balcony railing and then pointed the gun directly at him again. He recalled thinking that the tree and the building did not provide complete cover for him or the other officers present and that any of them may be hit if the suspect fired the gun. Officer Sioson yelled again at Fitzgerald to put the shotgun down.

Officer Sioson said he was viewing Fitzgerald through his scope (on 3X magnification) and he saw that her facial expression "seemed determined." Officer Sioson said he felt certain that Fitzgerald was about to fire so he fired 3 rounds.

After being shot, Fitzgerald collapsed to the balcony.

Officer Sioson explained that when Fitzgerald pointed the gun at him he felt fear that she was going to kill him or one of his fellow officers. Detective Forster asked Officer Sioson if he felt he had any other option (besides deadly force) and he said, "No, I did not."

Officer D. Ehlers was interviewed by Detective Baldwin on 07-09-12 at 11:20 AM. The following is a synopsis of that interview.

Officer Ehlers has served as a member of the Psychological Emergency Response Team (PERT) and is a member of the ECPD Crisis Negotiations Team (CNT). He was working uniformed patrol as a patrol officer when he was assigned the call to go to Fitzgerald's apartment because she wanted to relinquish her husband's shotgun.

When Officer Ehlers responded to the call to Fitzgerald's apartment he was aware that her husband had recently left her, that she had recently been committed on a 72 hour 5150 W&I hold for being suicidal and that she had also recently relinquished her service dog to ECPD. Based on his training and experience Officer Ehlers believed that these were possible signs that Fitzgerald may have been suicidal at that time also.

Due to this possibility Officer Ehlers and Officer Stoller decided to have ECPD Dispatch call Fitzgerald and ask her to come outside and meet them. This would allow one of them to speak to her away from the weapon while the other officer went in to recover and secure the weapon safely. They attempted this but it did not work because Fitzgerald would not comply with the request. Fitzgerald did come onto her balcony while on the phone with dispatch and she appeared to be looking for the officers.

Officer Ehlers was able to talk directly to Fitzgerald while she was on the balcony. He asked her repeatedly to come down and she told him that she would, three separate times, but she never did. Fitzgerald also told Officer Ehlers that the shotgun was in-fact loaded. Fitzgerald asked Officer Ehlers why she needed to come out to meet him and he told her it was for officer safety reasons.

Fitzgerald told Officer Ehlers that she wanted him to come to her door, stand in front of the peep-hole, knock on the door and identify himself and that she would give him the shotgun. Officer Ehlers declined to do this for officer safety reasons. Officer Ehlers stated that when he spoke directly to Fitzgerald he was not behind cover and he was in full uniform and that she could see him. Officer Ehlers said that he found it strange that Fitzgerald would want him to

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come to the door and announce himself and he felt that she was playing games and acting nervous.

Due to the circumstances Officer Stoller asked the dispatcher for "emergency traffic," and to have additional units respond to the scene to assist them. Officer Ehlers asked for Officer Sioson to respond because of his tactical training and special equipment. When the officers arrived he helped to organize them and set up a perimeter around Fitzgerald's apartment.

Officer Ehlers noted some specific concerns regarding the fact that this was a Sunday morning and many families were home due to it being a weekend. Additionally he noted that just to the north was a Burger King restaurant with a child's playground attached. He was also concerned because when he had talked to Fitzgerald face to face she had repeatedly stated that she was going to come out of the apartment with the shotgun and he had repeatedly told her not to do this. Officer Ehlers also noted that Fitzgerald seemed to be getting frustrated because they would not come to her door.

Officer Ehlers then used a phone to negotiate with Fitzgerald for about 36 minutes. During this time she made contradictory statement to him about the weapon being loaded or unloaded and that it was in or not in the case. He made numerous attempts to convince her to come out of the apartment, without the gun, but she repeatedly refused. At one point he suggested to her that the police could leave, without collecting the gun, because she had not done anything wrong and had not broken any laws. At that point Fitzgerald commented to him that she knew that she was a threat to the nearby children and she stated that she did not care about "the old lady downstairs." Fitzgerald then told Officer Ehlers that the officers were corrupt, that they had killed her dog and they had told her husband to leave her.

During the conversation with Fitzgerald, she provocatively asked Officer Ehlers, "What if I come out with the shotgun?" Fitzgerald also stated that she was going to come out with the shotgun and Officer Ehlers gave her instructions not to do that and to leave the gun alone. Fitzgerald offered to throw the gun off the balcony but Officer Ehlers told her not to because he was afraid that it might accidentally discharge. Officer Ehlers offered to take Fitzgerald to a hospital but she refused. While Officer Ehlers was speaking to Fitzgerald he could hear her manipulating the shotgun and she told him that she was taking it out of the case. He stated that he repeatedly told her not to handle the shotgun.

Officer Ehlers asked Fitzgerald if she wanted to hurt herself or others and she did not answer him. Officer Ehlers asked Fitzgerald what he could do to help resolve the situation and she answered "What I'm asking for is for you to shoot me." At that point the call was terminated.

Officer Ehlers was able to recall Fitzgerald at 11:54 AM and had another conversation with her that lasted about 8 minutes. During this conversation he believes that she was going in and out of her apartment onto the balcony. He could also hear her manipulating the shotgun. During this conversation Fitzgerald talked about going to heaven. At this point Officer Ehlers became convinced that Fitzgerald was intent on committing suicide. Officer Ehlers also believed that during this conversation that Fitzgerald had pointed the gun at herself and pulled the trigger. He actually heard the "click" of the hammer. Fitzgerald then seemed surprised that the gun did not go off and asked him how to work it. Officer Ehlers refused to tell her which only made her more frustrated.

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Officer Ehlers next heard what sounded to him like Fitzgerald loading the shotgun. He then advised the other units, via the police radio, that she may have been loading the shotgun. During the last moments of the conversation with Fitzgerald she became very quiet which concerned him. He tried to keep talking to her to defuse the situation but she ended the conversation. Officer Ehlers believed that Fitzgerald was about to do something to harm herself and he related this to Sgt. Robertson and Lt. Moulton.

Officer Ehlers was returning to his previous position near apartment 118 when he heard (directly) Fitzgerald say something like "come on shoot" and then begin counting "1,2,3," and then he heard the three gunshots go off.

Officer Ehlers then assisted with the units that made entry into Fitzgerald's apartment to secure the weapon and render aid to Fitzgerald.

Officer Ehlers believed that Fitzgerald may have been trying to get the officers to approach her door so that she could bait them into shooting her by pointing the gun at them.

Officer Stoller was not interviewed but did provide a written report about her action and observations during this incident. Officer Stoller was aware of Fitzgerald's recent history of a 5150 W&I committal. Due to this fact she and Officer Ehlers did not feel safe going to Fitzgerald's door and requested ECPD dispatch call her and ask her to come out and meet them. Officer Stoller felt that Fitzgerald was acting in an "unusual" or "paranoid" manner. She was aware that Fitzgerald had told dispatch that she wanted the officers to come to her door and knock and identify themselves and then she would give them the gun.

At one point Fitzgerald came onto her balcony and they stepped from behind cover so she could see them and recognize them as police officers. They asked her to come down but she refused saying that she did not have to do that, legally. They tried repeatedly to get Fitzgerald to come outside, without the shotgun, and she repeatedly refused to do so.

Officer Ehlers said that due to the suspect being uncooperative in turning over the shotgun safely they requested additional units to assist them. After several additional units arrive and set up a perimeter Officer Ehlers then began negotiating with Fitzgerald by phone. While this was happening Fitzgerald walked in and out of the apartment onto the balcony repeatedly. Eventually Fitzgerald brought a gun case out on the balcony and yelled out "Look officers, here is the loaded shotgun, but it's locked in this case, come get it."

After this Officer Stoller said that Fitzgerald began manipulating the case and appeared to be trying to open it. Both she and Officer Sioson gave Fitzgerald command not to open the case, but she ignored them. Fitzgerald then took the gun out of the case and began handling it. Officer Stoller states that Fitzgerald's behavior became more strange because she began singing loudly about Jesus Christ and going to heaven. Fitzgerald also was going back and forth between the apartment and the balcony and they could not see her at all times.

At one point, when Fitzgerald was on the balcony Officer Stoller saw Fitzgerald point the shotgun at her own head and pulled the trigger but it did not go off. Fitzgerald said "oh, it's not loaded." She then racked the slide of the gun and pointed it in the air briefly. Fitzgerald then pointed the gun in the direction of some officers but not directly at them. Fitzgerald then went inside the apartment with the shotgun for about 30-60 seconds.

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Fitzgerald then came back out onto the balcony and pointed the gun directly at the position where she and Officers Sioson, Bonilla and Darrow were. Both Officer Stoller and Officer Sioson yelled out to Fitzgerald not to point the shotgun at them. Officer Stoller stated that she felt that all of their lives were in immediate danger and that Fitzgerald was about to shoot at them but Officer Stoller did not shoot because Officer Bonilla was directly in front of her in her line of fire. Officer Stoller heard Fitzgerald say "Look, here we go..., 1, 2, 3" and at that point Officer Sioson fired three rounds at Fitzgerald and she collapsed onto the balcony.

Officer Bonilla was not interviewed but he did complete a written report regarding his action and observations during this incident.

During the incident Officer Bonilla was positioned on the east side of apartment 118 with Officers Darrow and Stoller. Officer Bonilla had a shotgun loaded with "less than lethal" bean bag ammunition referred to as a "blue gun." Officer Bonilla saw that Fitzgerald was talking to someone on the phone and that she was moving repeatedly between her apartment and her balcony. Fitzgerald brought a gun case onto the balcony and eventually opened the case and took out the shotgun. During this time several officers gave her repeated commands to put the gun down which she ignored. Officer Bonilla saw Fitzgerald manipulate the shotgun and point it at her head and he heard her sing a song. He also saw her point the gun in the air and pull the trigger but it did not go off. Officer Bonilla recalled hearing a radio transmission from Officer Ehlers to the effect that it sounded like Fitzgerald was loading the shotgun. Officer Bonilla saw Fitzgerald enter the apartment with the gun and stay inside for approximately 40 seconds. Fitzgerald then returned to the balcony and placed the gun along the balcony railing. Fitzgerald pointed the gun in their direction and Officer Sioson yelled at her not to point the gun at them. Fitzgerald moved the gun away from them briefly but then counted out loud "1, 2, 3..." and then pointed the gun directly at them again. At this point he heard Officer Sioson yelling at Fitzgerald not to point the gun at them.

Officer Bonilla then advised this over the radio as he tried to move closer to the building for cover. At this point he heard Officer Sioson fire 3 rounds.

Officer Darrow was not interviewed but he did complete a written report about his actions and observations during the incident.

Officer Darrow was in the same location as Officers Stoller and Bonilla and near where Officer Sioson. His observations of Fitzgerald and her actions are consistent with what the other officers described. He also described that when Fitzgerald pointed the gun in their direction he felt that she could see them from her position. He also heard her say "Whee, 1, 2,..." and that is when Officer Sioson fired his three shots.

Officer Sprecco was also at the scene in a position to the north and east of Fitzgerald's apartment. He shared this position with Officer J. Crawford. Officer Sprecco was not interviewed but he did complete a written report detailing his actions and observations during this incident.

Officer Sprecco made many of the same observations as described by the other officers on scene with respect to Fitzgerald's behavior and actions. He stated that he saw that Fitzgerald pointed the weapon directly at the position where he knew the other officers were, at which point he heard 3 rapid shots. Officer Sprecco noted that although he had seen Fitzgerald point the gun at herself and pull the trigger, without it discharging, he considered the weapon as

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loaded because she had repeatedly gone in and out of the apartment and she was constantly manipulating the weapon. Officer Sprecco also stated that he was concerned for the lives of the officers and citizens present and that if Fitzgerald had pointed the weapon directly at him he would have done the same thing and that he felt the use of deadly force was justified.

Officer Crawford was not interviewed but he did complete a report regarding his actions and observations.

Officer Crawford described most of the same behaviors and actions, by Fitzgerald, as the other officers present. At the moment of the shooting he was not in a direct line of sight to Fitzgerald and did not witness the circumstances of the shooting.

Sgt. Robertson was not interviewed but he did complete a written report about his actions and observations during this incident.

Sgt. Robertson tried to negotiate with Fitzgerald directly during the incident. He recalled telling her that the gun was not going to help her and instructing her to drop it. He heard her say "this is going to help me," referring to the shotgun, which she was holding at the time. Moments later he saw Fitzgerald point the gun at her own head and pull the trigger but the gun did not go off. Sgt. Robertson recalled that Fitzgerald did this 3 separate times without the gun firing. He also gave Fitzgerald repeated commands to put the gun down but she was ignoring all commands.

Sgt. Robertson left the area to meet with Lt. Moulton briefly for the purposes of determining if they would call out the SWAT team. During this time he heard via the police radio that Fitzgerald had gone back inside her apartment. Officer Sprecco asked him, via radio, if they had information as to whether Fitzgerald had any ammunition in her apartment and he responded that they did not have that information but, for officer safety reasons, they should assume that she did.

Shortly after this he heard the sound of 3 shots being fired, but he did not witness the shooting.

After the shooting Sgt. Robertson spoke to Fitzgerald's mother, [REDACTED], on the phone. [REDACTED] told Sgt. Robertson that she had been on the phone with Fitzgerald at the time of the shooting. [REDACTED] had told Fitzgerald to drop the gun and that she knew it wasn't loaded and Fitzgerald told her "The cops don't know that." [REDACTED] then heard Fitzgerald count down "3, 2, 1" and heard the gunshots. After that someone disconnected the phone.

After the shooting, Detective Paz located a witness named [REDACTED] who lives in the apartment downstairs and directly across from Fitzgerald's apartment. Detective Paz interviewed [REDACTED] on 08-01-12.

[REDACTED] was home on the day of the shooting. She became aware that something was going on when she tried to leave to go to church. She was told by police officers to stay in her apartment. From her apartment she was able to watch the events unfold. She saw Fitzgerald bring the gun case onto her balcony and remove the gun. [REDACTED] saw Fitzgerald waving the gun around and pointing it at herself. [REDACTED] also heard Fitzgerald marching on her balcony and singing songs. [REDACTED] heard officers talking to Fitzgerald and telling her to put the gun down and come outside, but that Fitzgerald refused. [REDACTED] saw Fitzgerald point the gun directly at the position where the officers were, just before the shots were fired.

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Officer Darrow interviewed witness [REDACTED] on 07-09-12. [REDACTED] lives in the upstairs apartment directly across from Fitzgerald.

From her apartment [REDACTED] saw that officers were outside and observed they were talking to Fitzgerald. She saw Fitzgerald take a gun case onto her balcony and remove the gun. [REDACTED] saw Fitzgerald waving the gun around and pointing it at herself and heard her "clicking" the trigger. [REDACTED] heard the officers telling Fitzgerald to drop the gun and come downstairs. [REDACTED] even yelled at Fitzgerald to do what the police were telling her to and that she should not be handling the gun. Fitzgerald said that she and her daughter were so scared that they were crawling on the floor of their apartment. [REDACTED] heard the shots fired, but she was not looking outside at that moment and she did not witness the shooting. [REDACTED]'s daughter [REDACTED] was also interviewed and she stated essentially the same thing.

Detective Paz interviewed witness [REDACTED] on 07-09-12. The following is a synopsis of that interview.

[REDACTED] was walking in the parking lot at 291 Jamacha, just south of 257 Jamacha, when she notices a number of officers with guns drawn. This brought her attention to where she saw a woman on a balcony (Fitzgerald) with a gun. She saw Fitzgerald waving the gun in the air and pointing it at herself. [REDACTED] said she saw Fitzgerald point the gun directly at where the officers were, at which point she was shot 3 times by one of the officers.

Detective Paz interviewed Fitzgerald's apartment manager [REDACTED] on 07-09-12. Fitzgerald did not witness the shooting but did provide some information about Fitzgerald which was relevant. The following is a synopsis of the interview.

[REDACTED] stated that the Fitzgerald's had been tenants for some time and were good tenants. She noted that Jamie Fitzgerald had a variety of medical problems that began to affect her behavior. This seemed to escalate after a surgery in about May of 2012. [REDACTED] stated that Jamie gave a 30 day notice on June 27th 2012 and indicated that she would be moving out but her husband, [REDACTED], would be staying. After that, on July 1st, [REDACTED] saw Jamie in the gazebo at the apartment complex "yelling at the top of her lungs." When [REDACTED] tried to talk to Jamie she became aggressive and yelled and cussed at [REDACTED]. [REDACTED] contacted the police regarding this incident requesting that Jamie be evaluated by the PERT team. Two days later [REDACTED] received a call from Jamie's mother, [REDACTED], requesting she check on Jamie because [REDACTED] could not reach her. [REDACTED] contacted the police for the welfare check and they told her that Jamie had been taken for a psychiatric evaluation. A few days after that she learned from Jamie's mother that Jamie was in the hospital and was supposed to be there for about 2 weeks.

After the shooting ECPD detectives obtained a search warrant for Fitzgerald's apartment. Various items of evidence were seized during the search warrant. One of the items seized was a Mossberg, Model 88, 12 gauge, pump action, shotgun with a pistol grip. This gun was recovered from the balcony where Fitzgerald had collapsed. The gun was determined to not have been loaded. A search of the residence did not locate any ammunition.

A search warrant was also obtained for the Verizon cellular phone that belonged to Fitzgerald. The contents of the phone were downloaded by Detective Baldwin using a Celle Brite UFED device. This information was examined and it was discovered that Fitzgerald sent several text

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messages to different people indicating that her marriage was failing. She also indicated that she was planning a move to Arizona.

Using information obtained from the phone I contacted several people from Fitzgerald's phone contacts, including [REDACTED] and [REDACTED]. They are both friends of Fitzgerald and were aware of her mental health issues and her medical issues. They were both aware that Fitzgerald was diagnosed as bi-polar and that she suffered from chronic pain. They were both also aware that Fitzgerald and her husband had separated. [REDACTED] described Fitzgerald as being depressed because of her separation from her husband and also her medical issues. [REDACTED] indicated that she believed that what Fitzgerald had done was "suicide."

I also spoke to Fitzgerald's aunt, [REDACTED], because Fitzgerald had spoken to her on the day of the shooting. [REDACTED] stated that Fitzgerald was diagnosed with rapid cycling bi-polar disorder and that she also suffered from Trigeminal Neuralgia. [REDACTED] also felt that Fitzgerald was under additional stress due to her husband's medical problems and noted that he nearly died about 3 months prior. [REDACTED] spoke to Fitzgerald on the morning of the shooting and felt that she was not behaving normally. She said that Fitzgerald was normally very open and talkative but on that day she was very direct and "matter of fact."

[REDACTED] had also spoken to Fitzgerald's mother, [REDACTED], after the shooting. [REDACTED] had told [REDACTED] that she spoke to Fitzgerald on the day of the shooting and that Fitzgerald told her. "Mom, I want to die." [REDACTED] told [REDACTED] that this was the first time that Fitzgerald had said this.

[REDACTED] was not aware of Fitzgerald having any suicidal thoughts or history of suicide attempts.

I made numerous attempts to interview [REDACTED]. Initially she declined to speak to me based on the advice of her attorney. Later she told me that she would be willing to speak with me but that she wanted to consult a new attorney first. Each time I called [REDACTED] she declined to talk at that time and I was never able to interview her.

On 07-31-12 I interviewed Fitzgerald's husband, [REDACTED], at ECPD. The following is a synopsis of that interview.

[REDACTED] told me that Jamie suffered from Transgeminal Neuralgia and rapid cycling bi-polar disorder and she is schitzo effective. In addition to this he told me she had been having vision problems resulting from a surgery to treat the Transgeminal Neuralgia. He also noted that she had been under some stress related to his health problems. He noted that her behavior had changed in recent months and that she had become more easily and more frequently agitated. [REDACTED] attributed this to the stress caused by her medical problems, his medical problems and that she had started taking a new psychiatric medication, Vixitril.

[REDACTED] told me that he had left the apartment after an argument he had with Jamie. The police arrived and warned him that if the situation continued he may be arrested. He went to stay with his sister for a few days but he intended to return and resume the relationship. He said that Jamie might not have felt that way. [REDACTED] said that Jamie had been pushing him and her family away from her and mentioned that she had given up her service dog as an example of this.

[REDACTED] was not aware of Jamie ever having had attempted suicide or having any suicidal thoughts.

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During the investigation I was contacted by [REDACTED] and [REDACTED], who are sisters, and were friends with Fitzgerald. They were interviewed about Fitzgerald but they were not witnesses to the shooting. The following is a synopsis of their statements.

They both indicated that Fitzgerald was acting "erratic" or "funny" in the days/weeks before the incident. They also described Fitzgerald as depressed. Additionally [REDACTED] stated that she believed that Fitzgerald actions were a form of "assisted suicide." In addition to this they both noted that on the day before the shooting Fitzgerald had come over to their apartment and given them her "Ensign" magazines which they felt was significant. They felt this was significant because some of the stories dealt with helping the families of persons who had committed suicide and grieving. [REDACTED] also felt that Fitzgerald was obsessed with "the hereafter." I noted that "Ensign" magazine is a Mormon faith publication and all of the articles are of a religious nature.

On 07-14-12 I received a phone call from ECPD Detective J. Pearsley, who notified me that he had been contacted by San Diego County Medical Examiner Investigator J. Buckley that Fitzgerald had been pronounced deceased on 07-13-12 at 2313 hours.

I then contacted District Attorney Investigator H. Eisinga and notified him of Fitzgerald's death.

Respectfully Submitted,

Sergeant Kevin Trotter #146
11-05-12

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